



December 8, 2003

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## SENATE BILL No. 17

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DIGEST OF SB 17 (Updated December 5, 2004 9:10 am - DI kc)

**Citations Affected:** IC 10-13; IC 31-37; IC 35-38; noncode.

**Synopsis:** Expanded DNA testing. Adds residential entry to the crimes for which an offender committed to the department of corrections (DOC) is required to submit a DNA sample. Requires a person placed on probation or directly committed to community corrections to submit a DNA sample if the person was convicted of a crime that would require a person committed to DOC to submit a DNA sample. Requires a delinquent child to submit a DNA sample if the child has been adjudicated a delinquent based on the commission of: (1) a sex crime; (2) burglary; or (3) residential entry.

**Effective:** July 1, 2004.

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November 18, 2003, read first time and referred to Committee on Rules and Legislative Procedure.

December 5, 2003, amended; reassigned to Committee on Judiciary.

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SB 17—LS 6079/DI 13+



December 8, 2003

Second Regular Session 113th General Assembly (2004)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 2003 Regular Session of the General Assembly.

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## SENATE BILL No. 17

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A BILL FOR AN ACT to amend the Indiana Code concerning corrections.

*Be it enacted by the General Assembly of the State of Indiana:*

- 1 SECTION 1. IC 10-13-6-10, AS ADDED BY P.L.2-2003,  
2 SECTION 4, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
3 JULY 1, 2004]: Sec. 10. (a) This section applies to the following:  
4 (1) A person convicted of a felony under IC 35-42 (offenses  
5 against the person), IC 35-43-2-1 (burglary), **IC 35-43-2-1.5**  
6 **(residential entry)**, or IC 35-42-4-6 (child solicitation):  
7 (A) after June 30, 1996, whether or not the person is sentenced  
8 to a term of imprisonment; and  
9 (B) before July 1, 1996, if the person is held in jail or prison  
10 on or after July 1, 1996.  
11 (2) A person convicted of a criminal law in effect before October  
12 1, 1977, that penalized an act substantially similar to a felony  
13 described in IC 35-42 or IC 35-43-2-1 or that would have been an  
14 included offense of a felony described in IC 35-42 or  
15 IC 35-43-2-1 if the felony had been in effect:  
16 (A) after June 30, 1998, whether or not the person is sentenced  
17 to a term of imprisonment; and

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(B) before July 1, 1998, if the person is held in jail or prison on or after July 1, 1998.

(b) A person described in subsection (a) shall provide a DNA sample to the:

(1) department of correction or the designee of the department of correction if the offender is committed to the department of correction; or

(2) county sheriff or the designee of the county sheriff if the offender is held in a county jail or other county penal facility, placed in a community corrections program (as defined in IC 35-38-2.6-2), or placed on probation.

A convicted person is not required to submit a blood sample if doing so would present a substantial and an unreasonable risk to the person's health.

SECTION 2. IC 10-13-6-11, AS ADDED BY P.L.2-2003, SECTION 4, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: Sec. 11. (a) The superintendent may issue specific guidelines relating to procedures for DNA sample collection and shipment within Indiana for DNA identification testing.

(b) The superintendent shall issue specific guidelines related to procedures for DNA sample collection and shipment by the county sheriff or designee of the county sheriff under **IC 31-37-19-12.5, IC 35-38-2-1.3, IC 35-38-2.6-4.3, and** section 10(b)(2) of this chapter. The superintendent shall provide each county sheriff with the guidelines issued under this subsection. A county sheriff shall collect and ship DNA samples in compliance with the guidelines issued under this subsection.

(c) The superintendent may delay the implementation of the collection of DNA samples under section 10(b)(2) of this chapter in one (1) or more counties until the earlier of the following:

(1) A date set by the superintendent.

(2) The date funding becomes available by grant through the criminal justice institute.

If the superintendent delays implementation of section 10(b)(2) of this chapter or terminates a delay under section 10(b)(2) of this chapter in any county, the superintendent shall notify the county sheriff in writing of the superintendent's action.

SECTION 3. IC 31-37-19-12.5 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: **Sec. 12.5. (a) This section applies if a child is a delinquent child under IC 31-37-1 due to the commission of a delinquent act that, if committed by an adult, would be an**

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offense under:

- (1) IC 35-42-4 (sex crimes);
- (2) IC 35-43-2-1 (burglary); or
- (3) IC 35-42-2-1.5 (residential entry).

(b) The juvenile court shall, in addition to any other order or decree the court makes under this chapter, order the child to provide a DNA sample to the county sheriff. A child is not required to submit a blood sample if doing so would present a substantial and an unreasonable risk to the child's health.

(c) The county sheriff shall collect and ship the DNA sample in accordance with the guidelines described under IC 10-13-6-11.

SECTION 4. IC 35-38-2-1.3 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: Sec. 1.3. (a) This section applies to the following:

- (1) A person convicted of a felony under IC 35-42 (offenses against the person), IC 35-43-2-1 (burglary), IC 35-43-2-1.5 (residential entry), or IC 35-42-4-6 (child solicitation):

(A) after June 30, 1996, whether or not the person is sentenced to a term of imprisonment; and

(B) before July 1, 1996, if the person is held in jail or prison on or after July 1, 1996.

- (2) A person convicted of a criminal law in effect before October 1, 1977, that penalized an act substantially similar to a felony described in IC 35-42 or IC 35-43-2-1 or that would have been an included offense of a felony described in IC 35-42 or IC 35-43-2-1 if the felony had been in effect:

(A) after June 30, 1998, whether or not the person is sentenced to a term of imprisonment; and

(B) before July 1, 1998, if the person is held in jail or prison on or after July 1, 1998.

(b) If the court places a person on probation under this chapter, the court shall order the person to provide a DNA sample to the county sheriff. A convicted person is not required to submit a blood sample if doing so would present a substantial and an unreasonable risk to the person's health.

(c) The county sheriff shall collect and ship the DNA sample in accordance with the guidelines described in IC 10-13-6-11.

SECTION 5. IC 35-38-2.6-4.3 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: Sec. 4.3. (a) This section applies to the following:

- (1) A person convicted of a felony under IC 35-42 (offenses

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1 against the person), IC 35-43-2-1 (burglary), IC 35-43-2-1.5  
 2 (residential entry), or IC 35-42-4-6 (child solicitation):

3 (A) after June 30, 1996, whether or not the person is  
 4 sentenced to a term of imprisonment; and

5 (B) before July 1, 1996, if the person is held in jail or  
 6 prison on or after July 1, 1996.

7 (2) A person convicted of a criminal law in effect before  
 8 October 1, 1977, that penalized an act substantially similar to  
 9 a felony described in IC 35-42 or IC 35-43-2-1 or that would  
 10 have been an included offense of a felony described in  
 11 IC 35-42 or IC 35-43-2-1 if the felony had been in effect:

12 (A) after June 30, 1998, whether or not the person is  
 13 sentenced to a term of imprisonment; and

14 (B) before July 1, 1998, if the person is held in jail or  
 15 prison on or after July 1, 1998.

16 (b) If the court places a person in a community corrections  
 17 program under this chapter, the court shall order the person to  
 18 provide a DNA sample to the county sheriff. A convicted person is  
 19 not required to submit a blood sample if doing so would present a  
 20 substantial and an unreasonable risk to the person's health.

21 (c) The county sheriff shall collect and ship the DNA sample in  
 22 accordance with the guidelines described under IC 10-13-6-11.

23 SECTION 6. [EFFECTIVE JULY 1, 2004] (a) IC 31-37-19-12.5,  
 24 as added by this act, applies only to a child whose dispositional  
 25 decree is entered after June 30, 2004.

26 (b) IC 35-38-2-1.3 and IC 35-38-2.6-4.3, both as added by this  
 27 act, apply only to a person sentenced after June 30, 2004.

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